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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,874	09/12/2001	Irwin Jerold Singer	17037A	8268

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KIMBERLY-CLARK WORLDWIDE, INC.  
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NEENAH, WI 54956

EXAMINER

SALVATORE, LYNDIA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/954,874

Applicant(s)

SINGER ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-28 and 30-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-28 and 30-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's remarks filed 01/05/05 have been fully considered and entered.

Applicant's remarks are not found persuasive of patentability over the prior art of Drew in view of Midkiff et al., for reasons set forth below.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 17-28 and 30-44 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Drew, US 6,186,320 in view of Midkiff et al., US 5,709,735.

Applicant argues a lack of motivation to combine the references of Drew, US 6,186,320 and Midkiff et al., US 5,709,735 to form the obviousness type rejection above. Specifically, Applicant asserts that one of ordinary skill in the art would not be motivated to combine the flexible storage sleeve taught by Drew with the high stiffness non-woven material taught by Midkiff et al. Applicant submits that the Examiner has not shown why the structural integrity of the Drew storage sleeve would be insufficient and as such would be led away from replacing the flexible non-woven taught by Drew with a high stiffness non-woven as taught by Midkiff et al. These arguments are not found persuasive. Midkiff et al., happens to exemplify a high stiffness non-woven filtration material, however, it would be expected that when the non-woven material is employed as towel or a protective fabric the stiffness would vary. Though not exemplified, Midkiff et al., teaches employing the non-woven web material in a variety of applications

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including protective fabrics and towels. As such, it is the position of the Examiner that the stiffness of the non-woven fabric is a function of the desired end use.

With regard to replacing the flexible non-woven of Drew with the higher stiffness non-woven taught by Midkiff et al., the Examiner maintains that the teaching of a flexible storage sleeve by Drew does not necessarily preclude providing a storage sleeve also having good structural integrity. Since Drew does not limit the degree of flexibility, it is the position of the Examiner that employing the spun-bonded polyolefin non-woven web taught by Midkiff et al., which comprises all of the claimed structural and chemical features set forth including the Gurley stiffness property limitation, would not necessarily render the storage sleeve of Drew inflexible. Moreover, the flexible storage sleeve of Drew must have some minimum degree of stiffness or it would lack sufficient structural integrity to function as a storage sleeve.

Recall, the patent issued to Drew teaches a double sided storage sleeve comprising flexible first, third sheet, and a flexible non-woven, non-laminated second sheet positioned between said first and third sheets (Claim 1). The flexible first, third, and second sheet are interconnected together on the bottom edge and two side edges to form two pockets (Claim 1). The flexible non-woven second sheet comprises a spunbonded, continuous polypropylene fiber (Claim 1). The flexible first and third sheets may be comprised of a transparent material such as plastic, vinyl or propylene, or non-woven materials (Column 3, 55-65).

Drew does not specifically teach the limitations set forth in claims, 24-38, however, the patent issued to Midkiff et al., teaches a non-woven web made from conjugate fibers of polyethylene and polypropylene (Abstract). Midkiff et al., teaches that

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non-woven webs are used in a variety of applications from diapers to protective fabrics (Column 1, 15-18). Specifically, Midkiff et al., teaches spunbond fabrics suitable for use as a filtration material (Column 1, 20-50). Midkiff et al., teaches that the spunbonded polyolefin non-woven fabric has good structural integrity, high permeability and filtration efficiency (Column 1, 35-50). The conjugate polyolefin fibers are spun together to form multi or bicomponent fibers, having a side-by-side or sheath/core configuration (Column 3, 29-45 and Column 6, 66-67). Midkiff et al., teaches various bonding techniques including through-air- bonding (TAB) or thermal point bonding (Column 4, 49-Column 5, 5). With regard to the Gurley stiffness, Midkiff et al., teaches a value above 700 mg

Therefore, motivated by the desire to provide a storage sleeve having sufficient structural integrity it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the double-sided storage sleeve taught by Drew with the spunbonded polyolefin non-woven fabric taught by Midkiff et al.

With regard to the bulk density limitation recited in claims 17 and 18, Applicant argues the Examiner's reliance on *In re Boesch*. Applicant asserts that since the prior art does not cite any bulk range there is no bulk density variable for which to optimize. However, it is the position of the Examiner that though there isn't an explicit teaching to a bulk density range, the general conditions of the claim are disclosed. As such, it is the position of the Examiner that based on the desired end use, discovering the optimum or workable bulk density range would involve only routine skill in the art.

With regard to Applicant's argument regarding the bonding pattern, Applicant argues that the prior art teaches a point bonding technique that is different from the instant claims. According to Applicant the point bonding pattern taught by Midkiff et al.,

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is distinct from the point bonding pattern described in the specification. Specifically, Applicant asserts that the point bonding pattern described in the instant specification consists of discrete unbonded areas which are encircled, or surrounded, by the continuous bonded areas. In response, it is respectfully pointed out that Applicant has not provided such limitations. While claims are interpreted in light of the specification it is improper to import limitations from the specification into the claims.

#### *Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

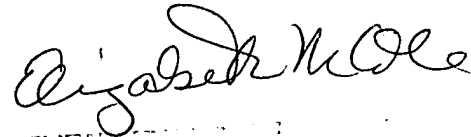
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 21, 2005

Is 

  
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